

COMMITTEE ON COMMUNITY IMPROVEMENT

December 6, 2004

4:00 PM

Chairman O'Neil called the meeting to order.

The Clerk called the roll.

Present: Aldermen O'Neil, Shea, Garrity, Smith, Lopez

Messrs.: F. Thomas, D. Spaulding, R. MacKenzie

Chairman O'Neil stated I would like to take Item 7 first.

Communication from Dayton and Concepcion Spaulding regarding drainage issues in the Pasture Drive development area.

Frank Thomas, Public Works Director, stated when Pasture Drive was developed as a sub-division, the consultants installed a treatment swale in the backyard areas for the storm drainage. That was required by the Water Resources Board. Over a period of time that area kind of filled in and grew up and the abutters requested the City to do something about it. As a result, we came to the CIP Committee and got approval to eliminate the storm drainage, the discharge behind these houses. We implemented that project so that there is no water from the streets and now the discharge from the backyard is rerouted down the street. Once that was done, there are approximately four or five homes that had this swale in their backyard. Four of the homeowners on their own elected to fill in their backyard areas and grade it off. This gentleman that has the request here now is the most upstream area and he did not complete the work or did not have it done with the rest of the abutters and is requesting the City to come in and address it. I, quite frankly, think that the City has done its fair share as far as rerouting the drainage down the street and eliminating the drainage from the backyards. Basically it is only localized drainage. I have a picture that shows exactly what this gentleman would like us to address and the unfortunate part about it is to get to this area we can't cut through his yard. We would have to cut through a yard two houses up and cut across two or three people's backyards to get to this location. I look at this, quite frankly, as a landscaping issue and with your permission I would like to come up and pass this picture around.

Chairman O'Neil asked Frank can you just generalize where Pasture Drive is.

Mr. Thomas answered Pasture Drive is on the West Side. If you know the old Robie Construction site, that is the area that the development went in. If I had to guess I would probably say about maybe seven years ago or so the development went in and as I mentioned what was constructed was a flat swale area in those backyards with roadway drainage discharge and they call them treatment swales in order to allow sedimentation to settle out of the storm drainage, etc. We were very successful in getting the State Water Resources Board to allow us to eliminate this treatment swale and the City did spend money to replace it down the street. As I mentioned, you see the picture there. That is what is left. Everybody else in that area did take it upon themselves to address it. Quite frankly I wouldn't even have a problem going in and maybe dumping a truck load of loam and spreading it out except I can't get between this gentleman's house down the old easement area. We would have to gain rights two or three houses down and then come up through the backyard. In doing that we would potentially cause some damage to some existing lawn areas and again if you take a look at the picture to me it is more or less a landscaping issue.

Alderman Shea asked Frank when you say that it is a landscape issue, if the gentleman were to have to do it himself what would be the expense involved. Would it be \$100? Would it be \$200? In other words let's assume it is your house and you are faced with the problem. How much would it cost to do it? What are we talking about?

Mr. Thomas answered I think probably under \$1,000. The problem is you would almost have to have the fill material wheelbarrowed in.

Alderman Shea asked so it is a labor type issue.

Mr. Thomas answered yes it is a labor type issue.

Alderman Shea asked and the other people you said took care of it themselves.

Mr. Thomas answered that is correct. The other abutters to the swale that was eliminated when we repiped down the street took it upon themselves and there were at least three or four neighbors that did that.

Alderman Shea asked and he at the time was also notified of this situation.

Mr. Thomas answered I don't know. This was more or less a private matter. The request that came through the City that went through CIP and was funded through chronic sewer and drain was to eliminate the need for this treatment swale and that was done by repiping the drainage down the street instead of outletting it in the backyards.

Alderman Shea asked when the other people did what they had to do in order to insure that they didn't have either drainage or what have you, did that impact his property or would it have been the same if they hadn't done that.

Mr. Thomas responded if you take a look at the picture again you can see that the backyard areas are fairly flat and they filled in the backyard areas and they leveled it off flat. Now without the roadway drainage being discharged behind these houses, the only drainage that is coming into that area is what is in the backyards themselves. That is a low point that you see right there but again if that was just filled in and covered over with grass the drainage from the backyard areas would percolate into the ground the same as the rest of the house. Keep in mind and I would just like to add to this that this is not something that really the City created. I mean if there was any filling that was done by the neighbors that interfered with his drainage that is really a civil matter, not a City matter. I don't think that the City has an obligation to do anything at this point.

Alderman Lopez asked Frank the top hill here, are these the other abutters or am I reading this wrong. Did we allow the other abutters to fill in?

Mr. Thomas answered the other abutters came to the Building Department and got authorization between the Building Department and the Highway Department. They approached the Highway Department and from my understanding at the Highway Department they were all told to work together to address filling in this area. I have some more pictures and basically what the pictures show are fairly flat backyard areas.

Alderman Smith stated Frank I think I initiated the drain situation over on Pasture Drive back a few years ago and I think we tried to resolve the situation. I know what you are talking about. There is no way that we can possibly get an easement okay that this gentleman can at least work on it himself or do you think it would do too much damage to the surrounding houses?

Mr. Thomas responded there is an easement by the side of his property but because of the grading and walls and firewood, etc. you can't get down in the easement area. The people that did the filling actually cut down between houses down the street a little bit farther.

Alderman Smith asked what is his address.

Mr. Thomas answered it is 126 Pasture Drive.

Alderman Smith asked and that would be up at the far end by the cul-de-sac.

Mr. Thomas answered no. I have another plan that I can show you.

Chairman O'Neil asked the other three or four property owners, they filled that in at their expense.

Mr. Thomas answered that is correct.

Chairman O'Neil asked and the work that was done that we paid for to correct the issue out on the street any idea what that cost the City.

Mr. Thomas answered quite frankly I don't know at this point.

Chairman O'Neil asked but there was some cost to us to repair the drains.

Mr. Thomas answered yes what we had to do was repipe the drainage to go up heading towards the cul-de-sac instead of popping out in that direction.

Alderman Lopez stated considering the other abutters and this gentleman being 82 years of age doing work down in that particular area and you offered to...there is no way you could get a pick-up truck where the wood pile is to come down that area. I think this gentleman wanted to say something.

Mr. Dayton Spaulding stated one point, I think I hear and I should make apologies for the fact that I don't hear well. I am sorry but nobody is more sorry than I am. You can get a bobcat down between my house and the house on the northern side of me because we have had one down in there. It is true that you can't get very heavy equipment between the houses and that is a problem. Am I allowed to continue? I think another point which maybe is being missed is that water coming down the hill from the Parker Varney School area hits the home to my north and my backyard heavier than any other backyard in the line of homes. So when the fill took place, the bulk of the rainwater is stopped at the back of my place, which requires...I can't take a picnic table out there and have a picnic and my grandchildren can't run. I have dug a little bit myself trying to get some of the swale a little bigger. I think I succeeded a little bit but not much so that I can cut the grass just to the left. I frankly went to EPD and they reminded me or pointed out to me a wetland and I had no idea what the definition of a wetland was. I don't know...I still don't know frankly. I looked it up and it is about 25 typed pages discussing wetlands. All I know is the back of my house is wet any time it rains. I am meandering a little bit at this point. The thing that bothers me is the fact that what differentiates my home from other homes down the street is that we are very close to the hill. The home next to me has started to level off and so that much water doesn't come down. Since they are further away from the heavier

rainfall coming off of the Parker-Varney hillside they are not subject to the accumulation of water in the back of their home and then when the fill was done with an easement from the City the water backs up in the back of my home. I think I have told the story as I want to tell it.

Alderman Lopez asked the other abutters it was indicated paid for it. You are not saying that you are not willing to pay are you?

Mr. Spaulding answered I paid \$800 to try to have a landscaper come out and improve the swale but it didn't improve it that much. I have gone out and dug some myself to try to improve it. It is all a matter of record but to give you an estimate there were four swales originally and I think they were 200' x 200' so that is 400 square feet per swale. Now keep in mind that I wouldn't be my figures are accurate but it will probably give you a good idea. There were four swales so that means the drain area was 1,600 square feet and I am left with 200 square feet and the rain coming off that hill regardless of whether the people down from me filled in their lots or not was entirely acceptable when the four swales existed. To be perfectly frank with you it is not acceptable when you are left with 200 square feet of 1,600.

Alderman Lopez asked Frank what is your recommendation.

Mr. Thomas responded let me have my engineers go out and meet with this gentleman. If, in fact, we can somehow get a piece of equipment between his property and I was told today...I haven't been out there but I had people out there today and I was told that we couldn't get equipment past his house. If we can get a small bobcat between his house and the existing easement area, I will attempt to fill in that small patch that you see there with some loam and seed to try to raise up that grade. If it is only a small amount of work, I will try to accommodate that out of my budget. If it is feasible to get access down there without going through everybody's backyard and it is more than just a few hundred dollars then I will come back to this Committee and ask for some money out of chronic drain if there is money left in there and I am not sure what the balance is. I will have to check. That would be my recommendation to this Committee.

Alderman Smith stated Frank I would just like to discuss something with you. What is the drainage level? Is it sloping towards his house now because everybody filled in? Is that like a retention pond now?

Mr. Thomas responded the backyard areas...the whole length of this swale was basically flat. We had surveys done out there and for that entire distance there are only a couple of tenths of a foot difference so for all intents and purposes it was flat and when the people down below him filled and graded off it left that small

pocket that you see there. I think or at least I hope that all that would have to be done is to level off that one area where that pocket is. Now I don't know why, quite frankly, when everybody else was working down there why that didn't also get done. As the gentleman said it is only about 200 or 400 square feet or something like that. If I can get a piece of equipment down there I don't mind spending a few hundred dollars to get that area leveled off.

Chairman O'Neil asked by doing this are we opening ourselves up to...as Mr. Spaulding said there are some issues with run off from Parker-Varney. Are we assuming some conditions that we shouldn't be then?

Mr. Thomas answered the only concern that I have quite frankly is that the four abutters addressed their backyards on their own and he is a fifth abutter asking the City to go in and do something that the others have done. Now why I am reluctant in going in there, quite frankly, is because I don't know what the other four people paid but I am sure they paid something to have their backyards filled in, graded off and seeded.

Chairman O'Neil asked Mr. Spaulding why when your neighbors chose to have the work done did you chose not to have the work done.

Mr. Spaulding answered I did not choose not to do it. First of all, I can't at my age do it myself. If it was 30 years I could do it no problem but I would like to point out again that the neighbors south of me don't have the water coming off the hill that we have. The hill is steep or steeper towards my home and the home to the north of me. On the south of me the land is relatively flat in comparison. While I have your attention if I may I guarantee you that you can get a bobcat in between my house and the northern neighbor because I have done it. I don't mean that I personally did it but I had a landscaper come in with a bobcat and went in. I don't know whether it is a fit time for me to say this or not but I think a day or two of somebody who knows what they are doing with the equipment would wind this job up if it is done. I have a hard time seeing why I should stand the expense. I bought the home with my eyes open. I bought the home with the four swales functioning and we were perfectly happy and nobody that I know of had any complaints. By quirk or what have you, one of the homes changed hands and the new owners didn't like, I think, and I am putting my own thoughts into this and have nothing concrete to go on but they didn't like the way the swales looked so they filled it in and that started the others. So I and my wife become the victims of somebody else's desires and victims as well of not having the home that we purchased originally. I don't think that we should be made to pay the expense to try to correct it.

Alderman Smith moved to have the Public Works Director look into the feasibility of correcting the problem and come back to the Committee with a cost. Alderman Lopez duly seconded the motion. Chairman O'Neil called for a vote. There being none opposed, the motion carried.

Chairman O'Neil stated Mr. Spaulding, Mr. Thomas and his staff will work with you. This isn't a norm for us so I want you to understand that. We usually don't get involved in private property issues.

Mr. Spaulding asked have you voted on the issue.

Chairman O'Neil answered we voted to have the department work with you to try to resolve the issue.

Mr. Spaulding responded so I am to work with him in this endeavor and hopefully he is going to be able to see his way clear to get it done.

Chairman O'Neil replied yes and if there is an expense to the City he is going to come back to us with what the expense is.

Mr. Spaulding asked are they going to expect me to pay.

Chairman O'Neil answered unless it is some outrageous amount of money probably not. We are hoping it is a minor issue.

Mr. Spaulding stated I appreciate your time and again I am sorry you have to put up with a guy who can't hear everything that is going on.

Chairman O'Neil addressed Item 3 of the agenda:

Request for project extensions through June 30, 2005.

Alderman Shea asked why is this necessary at this time.

Robert MacKenzie, Planning Director, stated there area lot of projects that are still outstanding. A number of these are actually grants that the City received and have not concluded yet. We do try to track and review with each department where the project stands but these projects we felt should be extended because they are ongoing.

Alderman Shea asked so basically we are not postponing or doing anything other than continuing in order for these things to be accomplished.

Mr. MacKenzie answered yes.

Alderman Shea moved to approve the project extensions. Alderman Smith duly seconded the motion. Chairman O'Neil called for a vote. There being none opposed, the motion carried.

Chairman O'Neil addressed Item 4 of the agenda:

Amending Resolution and Budget Authorization providing for increase of \$294,350 in federal funds for Health Department CIP #210902 Substance Abuse Prevention and Treatment Program.

On motion of Alderman Lopez, duly seconded by Alderman Shea it was voted to approve the amending resolution and budget authorization.

Chairman O'Neil addressed Item 5 of the agenda:

Resolutions and Budget Authorizations providing for transfer of \$49,307.04 in bond funds from Cohas Brook Fire Station project #411403 to #510005 Park Facilities Improvement Program for costs associated with Raco Theodore Pool.

On motion of Alderman Smith, duly seconded by Alderman Garrity it was voted to approve the resolutions and budget authorizations.

Chairman O'Neil addressed Item 6 of the agenda:

Sewer abatement request – 22 Appleton Street

Chairman O'Neil asked does everybody have a communication from Tom Seigle dated December 6.

Alderman Garrity moved to receive and file. Alderman Smith duly seconded the motion. Chairman O'Neil called for a vote. There being none opposed, the motion carried.

TABLED ITEMS

8. Parks, Recreation & Cemetery Master Plan discussion.

This item remained on the table.

9. Gill Stadium operating funds estimated \$93,000.

This item remained on the table.

There being no further business, on motion of Alderman Garrity, duly seconded by Alderman Shea it was voted to adjourn.

A True Record. Attest.

Clerk of Committee